

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANCISCO ARCIBAL,

Case No. 2:23-cv-00097-ART-NJK

Petitioner,

ORDER

v.

WARDEN BEAN,

Respondents.

This habeas matter is before the Court on Petitioner's Motion to Dismiss Habeas Action Without Prejudice (ECF No. 5), Motion to Vacate Motion to Dismiss (ECF No. 6), and Motion to Extend Time (ECF No. 7). On January 31, 2023, the Court issued its order informing Petitioner that he has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* ("IFP"). (ECF No. 4.) The Court instructed Petitioner to either pay the \$5 filing fee or submit a complete IFP application with all required documentation no later than March 17, 2023. (*Id.*)

On February 28, 2023, Petitioner requested that the Court dismiss his federal habeas petition without prejudice on the basis that his claims have not been exhausted in state court. (ECF No. 5.) Petitioner, however, now moves to vacate his motion requesting voluntary dismissal of his habeas petition. The Court grants Petitioner's request to vacate his motion to dismiss (ECF No. 6) and denies his motion to dismiss (ECF No. 6) as moot.

Petitioner requests a 60-day extension of time to file his IFP application. (ECF No. 7.) The Court finds that the request is made in good faith and not solely for the purpose of delay, and therefore, good cause exists to grant Petitioner's motion. Petitioner has until May 16, 2023, to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

IT THEREFORE IS ORDERED:

1. Petitioner's Motion to Dismiss Habeas Action Without Prejudice (ECF No. 5) is denied as moot.
2. Petitioner's Motion to Vacate Motion to Dismiss Petition (ECF No. 6) is granted.
3. Petitioner's Motion to Extend (ECF No. 7) is granted.
4. Petitioner must file by **May 16, 2023**, an IFP application that includes a: (a) financial certificate signed by Petitioner and an authorized prison official, (b) financial declaration and acknowledgement signed by Petitioner, and (c) copy of Petitioner's inmate account statement for the six-month period prior to filing. Alternatively, Petitioner must pay the \$5 filing fee no later than **May 16, 2023**. If Petitioner decides to pay the filing fee from his inmate account, he must arrange to have a copy of this order attached to the check for the filing fee.
5. Petitioner's failure to comply with this order by May 16, 2023 (a) submitting a complete IFP application, or (b) paying the filing fee will result in the dismissal of this action without prejudice and without further advance notice.

DATED THIS 31st day of March 2023.



ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE